



PUBLIC NOTICE

Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

DA 99-796

Released: April 28, 1999

“PERMIT-BUT-DISCLOSE” *EX PARTE* PROCEDURES ESTABLISHED FOR TTY WAIVER REQUESTS

CC Docket No. 94-102

For the reasons set forth below, the Wireless Telecommunications Bureau concludes that it is in the public interest to change the *ex parte* status of the “TTY waiver request” proceedings from “restricted” procedures set forth in Section 1.1208 of the Commission's Rules to the “permit-but-disclose” procedures set forth in Section 1.1206 of the Rules.¹

In the *E911 First Report and Order*² the Commission required that, as of October 1, 1997, all covered wireless carriers must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, *e.g.*, through the use of text telephone (TTY) devices. Carriers operating digital wireless systems have not been able to meet this requirement because digital systems are not able to accurately pass the Baudot-encoded audio tones produced by TTY devices. As a result, in November 1998, the Wireless Telecommunications Bureau released an Order announcing that it would accept petitions for waiver of Commission rules that require carriers to provide for communications by TTY devices on wireless digital networks.³ In response, the Commission received over 100 petitions seeking waiver of these rules. Subsequently, the Commission released an Order indicating that all parties filing waiver petitions would receive “temporary waivers,”

¹ 47 C.F.R. §§ 1.1206, 1.1208.

² Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) (*E911 First Report and Order*), *recon.*, 12 FCC Rcd 22665 (1997) (*E911 Reconsideration Order*), *further recon. pending*.

³ Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Order, DA 98-2323, released Nov. 13, 1998.

and that each party's waiver petition subsequently would be evaluated to determine if justification existed for the grant of a permanent waiver. These petitions are currently pending.⁴

Section 1.1208 of the Commission's Rules states that for *ex parte* purposes, unless otherwise provided by the Commission or its staff, requests for waiver of the Commission's rules are subject to treatment by the Commission as restricted proceedings. In the case of TTY waiver requests filed by Commercial Mobile Radio Service (CMRS) carriers, the proceedings do not currently involve manufacturers of CMRS or TTY equipment, nor do they include consumers with hearing or speech impairments that use TTYs. Because of the policy implications and potential impact of these proceedings on persons who are not parties to the waiver proceedings, we believe it would be in the public interest to treat these proceedings as permit-but-disclose proceedings under the *ex parte* rules.⁵ Therefore, subsequent to the release of this Public Notice, *ex parte* presentations that are made with respect to the issues involved in the subject waiver requests will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules.⁶

Specifically, Section 1.1206(b) of the Commission's Rules provides, among other things, that all parties making *ex parte* presentations shall file any written *ex parte* presentations and summaries of oral *ex parte* presentations in all of the TTY waiver proceedings. Two copies of any written *ex parte* presentations made, or, if oral, an original and one copy of a memorandum that summarizes the oral *ex parte* presentation, must be submitted to the Secretary for inclusion in the public record, with two copies to the Commissioners or Commission employees involved in the oral presentation. These memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. All such filings should be clearly captioned as *ex parte* presentations, should reference CC Docket Number 94-102 the docket number of the Wireless E911 proceeding, and must be filed no later than the next business day after the presentation.

By the Chief, Wireless Telecommunications Bureau.

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⁴ For a list of TTY waiver requests pending before the Commission, see Appendix in Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Order, FCC 98-345, released Dec. 31, 1998, *erratum*, released Jan. 15, 1999, *erratum*, released Jan. 20, 1999.

⁵ See Sections 1.1200(a) and 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206.

⁶ 47 C.F.R. § 1.1206(b).